IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ALABAMA SOUTHERN DIVISION

JAMES G. RIGBY,)
Plaintiff,)
vs.) CV-2011-373-KD-M
FIA CARD SERVICES, N.A., d/b/a BANK OF AMERICA	
Defendant.)

PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT

COMES NOW Plaintiff, James G. Rigby, and, pursuant to Rule 56(a) of the *Federal Rules* of *Civil Procedure*, respectfully moves this Court for partial summary judgment. Specifically, Plaintiff seeks summary judgment as to liability on his claim (stated in Count I of the Complaint) that Defendant has violated the Federal Fair Credit Billing Act ("FCBA"), 15 U.S.C. § 1666. Plaintiff submits that there is no genuine dispute of any material fact as to the Defendant's liability under the FCBA and that Plaintiff is entitled to a judgment as a matter of law as to this issue.

This Motion is supported by the Plaintiff's Narrative Statement of Undisputed Facts and Memorandum of Law, and the exhibits attached thereto.

These supporting materials are not being filed contemporaneously herewith because they include documents and information designated by Defendant as "Confidential" pursuant to the Protective Order entered by this Court (Doc. 54). That Order requires the parties to seek leave to file under seal any document which has been marked by the other party as "Confidential." (Doc. 54, ¶ 13). This requirement also applies to any pleading that discloses or partially discloses the contents of any document marked "Confidential." (Id.). FIA has marked as "Confidential" much of its production to Plaintiff and several of the documents so marked are relied upon by Plaintiff in support His Motion for Partial Summary Judgment. FIA has the burden of establishing that these documents are entitled to be protected as confidential under the *Federal Rules of Civil Procedure*. (Id.). It is Plaintiff's position that none of the material marked "Confidential" is entitled to protection as

proprietary business information or other privilege. In compliance with the Protective Order, Plaintiff is separately filing a request for Leave to File under Seal.

WHEREFORE, Plaintiff requests that this Court enter judgment as a matter of law in his favor as to liability for the claim assert in Count I of the Complaint.

s/ Kenneth J. Riemer
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CERTIFICATE OF SERVICE

I hereby certify that on April 26, 2013, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the counsel of record.

s/ Kenneth J. Riemer
OF COUNSEL